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SCIENCE AND TECHNOLOGY COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515-4402

January 4, 2011

Mr. Rusty Lundberg
Director
Utah Division of Radiation Control
195 North 1950 West
Salt Lake City, Utah, 84116

Dear Mr. Lundberg,

I am sending you my comments regarding the Utah Radiation Control Board's proposed changes to regulations governing radioactive waste performance assessments. It is my understanding that these new rules would require performance assessments to be submitted to Utah regulators for approval prior to the acceptance of waste streams that were not considered in the development of the low-level waste classification system as defined in Federal code at 10 CFR 61.55. Depleted uranium and blended waste are two such waste streams that were not considered in the development of the US low-level waste classification system, and which the U.S. Nuclear Regulatory Commission (NRC) has therefore recently termed "unique wastes."

In its October 13, 2010 memo to staff, the NRC revised its position on blended waste to allow a risk-informed and performance-based mixing of Class B and C waste with Class A waste. However, the NRC recommended that "entities wishing to pursue large scale blending should be encouraged to wait until the revised Branch Technical Position (BTP) is published in a final form." While I believe it is wise for the Board to clarify that all unique waste streams may not be accepted for disposal in the state of Utah until a performance assessment has been submitted and approved by Utah regulators, I also believe that it is important for Utah to wait to approve any such unique waste stream for disposal in Utah until after the NRC has updated its regulations and associated guidance documents pertaining to unique wastes.

With regard to blended wastes specifically, I continue to have concerns about allowing the mixing of Class B and C waste with Class A waste so that the average concentration of the resulting mixture can be designated as Class A waste and therefore sent to Utah in contravention of the Utah ban on hotter Class B and C wastes that was passed in 2005.

That the NRC has designated blended wastes as "unique wastes" indicates to me that they are of a character and composition that is distinct from the kinds of Class A radioactive waste resins that predominate today. Specifically, I am concerned that blended wastes, after mixing, will segregate into different components exhibiting the properties of Class A and Class B/C waste respectively. This concern appears to be reflected in the NRC's October 13 memo, which states that NRC staff should "develop a clear standard for determining homogeneity" of blended wastes.

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If and when an applicant seeks to dispose of blended waste in Utah, I am hopeful that every possible safety and health concern will be thoroughly addressed. Among the many criteria I hope will be considered as part of the site-specific safety analysis are all possible intruder scenarios, what timeframe is most appropriate for modeling blended waste, and the effects of geologic or climatic changes that could result in higher water levels surrounding the Great Salt Lake. I would also ask that the Board consider whether there are other viable and secure underground storage options for unique waste streams that might avoid many of the outstanding questions currently surrounding disposal of unique wastes like depleted uranium and blended wastes above-ground at Clive. I strongly oppose large-scale blending of low-level radioactive waste at least until the NRC completes its guidance and rulemaking.

Finally, I share the Board's concern that the practice of large-scale waste blending appears to be a back-door means to dispose hotter levels of radioactive waste in a state that has specifically decided not to take these hotter waste streams. As articulated in your "Position Statement on Down-Blending Radioactive Waste," the Board "is opposed to waste blending when the intent is to alter the waste classification for the purposes of disposal site access."

When the state of Utah is already providing nuclear waste disposal services to nearly every state in the nation, and disposes the vast majority of the country's low-level commercial radioactive waste generated every year, I believe it is critically important that Utah's desire to confine this waste stream to only Class A be respected. Specifically, large-scale waste blending operations should not allow wastes that would otherwise be disposed of as Class B or C to be sent to Utah, in apparent violation of Utah's longstanding state ban on these wastes. I therefore hope the Board will continue to consider other measures that will protect Utah's statutory ban on Class B and C wastes.

Thank you for your consideration of my views, and for your dedicated work on this issue. It is important we work together at all levels of government to ensure the public continues to have confidence that we will keep Utahns healthy and safe.

Sincerely,

JIM MATHESON
Member of Congress